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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**FELIPE KELLY, individually and on behalf of all
others similarly situated,**

Plaintiff,

v.

**BROOKLYN EVENTS CENTER, LLC d/b/a
BARCLAYS CENTER, LEVY PREMIUM
FOODSERVICE LIMITED PARTNERSHIP, and
PROFESSIONAL SPORTS CATERING LLC,**

Defendants.

No. 1:17-cv-4600 (KAM)(RLM)

**SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTIONS FOR CERTIFICATION OF THE SETTLEMENT CLASS
AND FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT, APPROVAL OF
ATTORNEYS' FEES AND COSTS AND APPROVAL OF SERVICE AWARD**

Plaintiff submits the following update to the Court regarding the settlement administration process, which provides further support for Court approval of this settlement.

On August 27, 2019, the Settlement Administrator, American Legal Claim Services ("ALCS"), informed the Parties that it received a timely Claim Form from a Tier Two/Three Class Member requesting Tier Three Class relief. Supplemental Declaration of Ossai Miazad ("Miazad Supp. Decl.") ¶ 4. This Class Member's notice package was re-mailed to her on July 23, 2019, less than 20 days from the Acceptance Period. *Id.* As such, the Settlement Administrator determined that the Class Member would be eligible for a 10-day extension to

submit a Claim Form on or before August 19, 2019. *Id.* ¶ 5. Because the Claim Form was postmarked on August 14, 2019, the Settlement Administrator determined that the submission is timely. *Id.* The Class Member has elected to receive a payment of \$2,350.00 (Tier Three). *See id.* ¶ 4.

Accordingly, as of September 4, 2019 the Settlement Administrator has received 38 valid Claim Forms. Miazad Supp. Decl. ¶ 6; *see also* ECF No. 46-2 Ex. B (Declaration of Keith Salhab Re: Notice Procedures (“Salhab Decl.”)) ¶¶ 13-15. This represents a claim rate of approximately 52%. Miazad Supp. Decl. ¶ 6. This number accounts for 29 Class Members who have claimed Tier Three Class Relief and 9 Class Members who have claimed Tier Two Class Relief.¹ *Id.*

Based on the 38 valid Claim Forms submitted to date, Class Members will receive a maximum of \$101,450.00 in monetary relief from the settlement. Miazad Supp. Decl. ¶ 9. This number consists of \$68,150.00 for Tier Three Class Members, \$17,550.00 for Tier Two Class Members, \$8,750.00² for Tier Two and Three Class Members and Pending Class Members who did not submit Claim Forms and \$7,000.00 for Tier One Class Members.³ *Id.*

¹ Of the Class Members who submitted Tier Three Claim Forms, 15 were Tier Two or Three Class Members and 14 were Pending Charges Class Members. Miazad Supp. Decl. ¶ 7; *see also* Salhab Decl. ¶ 14. Of the Class Members who submitted Tier Two Claim Forms, 3 were Tier Two or Three Class Members and 6 were Pending Charges Class Members. Miazad Supp. Decl. ¶ 7; *see also* Salhab Decl. ¶ 14. In total, 18 of the 43 Tier Two and Three Class Members submitted Claim Forms (41.8%). Miazad Supp. Decl. ¶ 8; *see also* Salhab Decl. ¶¶ 12, 14. In total, 20 of the 30 Pending Charges Class Members submitted Claim Forms (66.7%). Miazad Supp. Decl. ¶ 8; *see also* Salhab Decl. ¶¶ 12, 14.

² This number is now \$8,750.00, instead of \$9,000.00 because, as discussed, the Class Member in question has been deemed to be properly included within the Tier Three claimants.

³ In Plaintiff’s initial filing, Plaintiff accurately calculated the maximum monetary relief from the settlement as \$99,350.00, but stated that the total consisted of \$68,800.00 for Tier Three Class Members instead of the correct amount of \$65,800.00 and reversed the total amount for Tier Two and Three Class Members and Pending Class Members who did not submit Claim Forms. *See* ECF No. 45-1 (Memorandum of Law in Support of Plaintiff’s Unopposed Motion

For these reasons, and as further discussed in Class Counsel’s moving papers, Class Counsel respectfully request that the Court grant their pending motions for settlement approval.

Dated: September 5, 2019
New York, New York

Respectfully submitted,

/s/ Ossai Miazad

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*Attorneys for Plaintiff and the
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for Certification of the Settlement Class and Final Approval of the Class Action Settlement (“FA Motion”)) at 4. Plaintiff apologizes for this inadvertent misstatement.